

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re ARTHUR C., a Person Coming Under  
the Juvenile Court Law.

B194385

(Super. Ct. No. KJ28906)

THE PEOPLE,

Plaintiff and Respondent,

v.

ARTHUR C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County,  
Martha Bellinger, Judge. Affirmed.

Cheryl Barnes Johnson, under appointment by the Court of Appeal, for  
Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant  
Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Scott A.  
Taryle and Michael C. Keller, Deputy Attorneys General, for Plaintiff and  
Respondent.

\_\_\_\_\_

The juvenile court sustained a petition alleging that 16-year-old Arthur C. had assaulted a minor with a knife, placed Arthur on probation at home with his mother, and set the maximum term of confinement at four years. (Welf. & Inst. Code, § 602; Pen. Code, § 245, subd. (a)(1).) Arthur appeals, claiming the juvenile court failed to consider his defense (that he was acting in defense of others). We disagree and affirm the order.

### **FACTS**

As Jasmine R. and her boyfriend, Manuel H., were walking to a nearby store, Jasmine's former boyfriend (Gilbert D.) approached them and swung at Manuel with his fist but missed. Manuel said he did not want to fight but Gilbert swung again, this time hitting Manuel's jaw with his clenched fist. Manuel then hit Gilbert, who stumbled. At about that time, Manuel saw Arthur (Gilbert's friend) walking toward them, knife in hand. When Manuel looked back to Gilbert, Arthur cut Manuel's hand with the knife. Manuel ran off, with Arthur and Gilbert jeering and threatening to "kill" him.

Arthur was detained, a petition was filed, and a contested hearing was held at which the prosecutor presented evidence of the facts summarized above. In defense, Arthur testified that he had come out of his house (at his brother's beckoning) to see Gilbert falling. Arthur thought Gilbert was "getting beat up" by Manuel and went to help. Arthur did not have a knife and Manuel cut himself when in the course of running off he hit a pole and fell into a bush. Both Jasmine and Arthur's brother testified that Arthur did not have a knife.

In rejecting Arthur's defense and sustaining the petition, the court asked, "[W]hy would [Manuel] bother to take off unless there was something, and he was smart enough to realize a knife or weapon is something that no longer makes a fight equal any longer; that there was no way he could stand his ground in this circumstance. And so seeing that knife, he took off and fled." In response, defense counsel (raising the point for the first time) asked, "What about the defense of others?" The court explained its rejection of that defense: "I'm finding that there was a knife involved here, and you can only use that amount of force that's necessary. You can't bring a deadly weapon into the situation. Defense of others does not apply in that circumstance."

### DISCUSSION

We summarily reject Arthur's contention that the juvenile court "refused to consider his defense of others defense." As shown above, the issue was most definitely considered by the court -- and rejected on the merits (rather than on the ground that it had not been timely raised). The trial court's credibility call -- that Arthur did in fact have a knife -- is binding on this appeal (*People v. Young* (2005) 34 Cal.4th 1149, 1181), and the trial court's ruling -- that the defense only applies when the use of force does not exceed that which a reasonable person would believe is necessary -- is absolutely correct (*People v. Clark* (1982) 130 Cal.App.3d 371, 380; *People v. Enriquez* (1977) 19 Cal.3d 221, 228 [an assault with fists does not present an imminent danger of death or great bodily injury and thus does not justify the use of a deadly weapon, disapproved on another ground in *People v. Cromer* (2001) 24 Cal.4th 889, 898]).

**DISPOSITION**

The order is affirmed.

NOT TO BE PUBLISHED.

VOGEL, J.

We concur:

MALLANO, Acting P.J.

ROTHSCHILD, J.